

MINUTES
Texas Real Estate Commission
January 11, 1999
Conference Room 235, Texas Real Estate Commission
Austin, Texas

Chairman Brummett called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, January 11, 1999. Besides Chairman Brummett, members present were Mr. Brodie, Ms. Sutton, Mr. Cantu, Mr. Katine, Ms. Gonzalez-Gil, Ms. Mayfield, and Ms. Folmer. Chairman Brummett, seconded by Ms. Sutton, moved to excuse Ms. Lewis' absence. The motion was adopted by unanimous vote.

Staff present were: Wayne Thorburn, Administrator; Brian Francis, Assistant Administrator; Mark Moseley, General Counsel; Don Dudley, Director of Licensing and Education; Alan Waters, Director of Staff Services; Glen Bridge, Director of Information Services, Loretta DeHay, Director of Enforcement; and Pat Holder, Executive Assistant.

After calling the meeting to order, the Chairman led the attendees in the pledge of allegiance and the Texas pledge of allegiance.

The Chairman moved to agenda item two, minutes of the December 7, 1998, Commission meeting. Mr. Cantu, seconded by Mr. Katine, moved to approve the minutes as mailed. The motion was adopted by unanimous vote.

The Chairman moved to agenda item three, staff reports; committee reports. Ms. DeHay introduced the new receptionist for the Enforcement division Jackie Revilla. Ms. DeHay reported on the average number of cases opened and closed in a month.

Mr. Bridge reported an increase in subscribers to the TREC-L, and he reported that 1,500 people have used the new feature on TREC's web site that allows a person to look up licensee information from the mainframe database.

Mr. Dudley reported that a productive exam writing and review session was held in December in Houston. Another session will be scheduled in Dallas, probably in late February. There was discussion concerning the L1 report.

Mr. Waters introduced two new employees, Sandra Johnson and Laura Davis. Mr. Waters reported that the first quarter report on measures was submitted to the Governor's Office of Budget & Planning and the Legislative Budget Board on Friday and members should be receiving a copy in the near future.

Mr. Thorburn announced that TREC's 1-800 number is now available to out-of-state residents.

The Chairman moved to agenda item four, general comments from visitors. There were no comments from members of the public.

The Chairman moved to agenda item five, discussion and possible action to adopt amendment to 22 TAC §§535.71, 535.72 and 535.92, concerning mandatory continuing education courses and license renewal. Mr. Moseley presented the item for final action. Mr. Katine, seconded by Ms. Mayfield, moved to adopt amendments to 22 TAC §§535.71, 535.72 and 535.92, effective March 1, 1999. The motion was adopted by unanimous vote.

The Chairman moved to agenda item six, discussion of proposed amendments to 22 TAC §535.154, concerning advertising. Mr. Moseley presented the item for discussion. After discussion, Chairman Brummett requested that staff prepare a computerized demonstration to be presented at the next meeting. He also requested that staff prepare more specific definitions on advertisements.

The Chairman moved to agenda item seven, discussion and possible action to authorize filing notice of intention to review Chapter 541, concerning criminal offense guidelines. After a presentation by Mr. Moseley, Mr. Katine, seconded by Ms. Mayfield, moved to authorize staff to file notice to review Chapter 541 concerning criminal offense guidelines. The motion was adopted by unanimous vote.

The Chairman moved to agenda item eight, executive session to discuss pending litigation pursuant to Texas Government Code, §551.071. The executive session began at 9:45 a.m.

The executive session ended and the open meeting resumed at 9:52 a.m. The Chairman moved to agenda item nine, discussion and possible action to authorize payments from recovery funds.

Mr. Moseley presented the following claim to be paid without contest.

RF 99-004 Jeffrey Daryl High v. Mitchell Lee Thomas, in the amount of \$1300.00 for actual damages. Mr. Katine, seconded by Mr. Cantu, moved to approve payment. The motion was adopted by unanimous vote.

The Chairman moved to agenda item ten, discussion and possible action on legislative update. Mr. Francis reported that the legislative session would start January 12, 1999. Mr. Francis also commented on the "YES" (Year End Savings) program. Mr. Francis reported that Representative Todd Staples would be carrying TREC's housekeeping bill.

The Chairman moved to agenda item eleven, discussion and possible action on proposal to limit number

of times an examination may be taken. Mr. Moseley presented the staff's proposal. Mr. Katine, seconded by Chairman Brummett, moved that the same language apply to both inspectors and real estate licensees concerning the number of examinations. Comments were offered by Minor Peeples, Corpus Christi School of Real Estate. Mr. Katine withdrew his motion. Chairman Brummett stated that this item would be put on the February meeting agenda.

The Chairman moved forward to item sixteen, discussion and possible action on Attorney General letter Opinion No. 98-119. Mr. Moseley presented the item for discussion. Mr. Moseley reported that the opinion was available on TREC's web site. After discussion, Mr. Katine, seconded by Mr. Cantu, moved that the staff be allowed to refund the fees for those registrations that have not yet become effective. The motion was adopted by unanimous vote.

The Chairman moved to agenda item twelve, discussion and possible action on proposal to clarify exemption for activities related to mineral interests and leases. Rick Turentine, American Association of Professional Landmen, Jack Wilhelm, lobbyist for Mobil Oil, and Ron Walker, Texas Association of Realtors, offered comments. After comments, Mr. Katine, seconded by Ms. Sutton, moved to postpone action until the next meeting. The motion was adopted by unanimous vote.

The Chairman moved to agenda item thirteen, discussion and possible action to appoint members of the Texas Real Estate Inspector Committee. Comments were offered by Jim Havens, an inspector. Ms. Mayfield, seconded by Ms. Folmer, moved to appoint Larry Foster, Jim Havens, and Fred Buck to the Texas Real Estate Inspector Committee. The motion was adopted by unanimous vote.

The Chairman moved to agenda item fourteen, discussion and possible action on policy regarding payment of referral fees. Mr. Moseley presented a draft policy statement concerning payment of referral fees. After discussion, Ms. Sutton moved that TREC approve the policy statement with two changes. The motion failed for a second. Mr. Katine moved to adopt the policy statement as presented except for the deletion of the second sentence of Section "III" deleting the sentence that says "For the purpose of this statement, an agency relationship cannot be established without a written agreement." The motion failed for a second. After further discussion, Chairman Brummett stated that this item would be put on the agenda for the next meeting. No action was taken.

The Chairman moved to agenda item fifteen, discussion and possible action on celebration of TREC's 50th anniversary. Mr. Thorburn discussed the up-coming presentations for licensees who had been licensed 50 years or more. After discussion, Mr. Katine, seconded by Ms. Folmer, moved to approve the resolution submitted by staff to recognize licensees.

The Chairman moved to agenda item seventeen, consideration of complaint information. Ms. DeHay requested permission to initiate investigations by the Enforcement Division for possibly engaging in unlicensed activity or failure to disclose unlicensed activity concerning the following: Judge Fite Company, Robert Jehli, and James Bradley Benat. Mr. Katine, seconded by Ms. Mayfield, move to authorize permission as requested by Ms. DeHay. Ms. Sutton, Ms. Mayfield, Ms. Folmer, Ms. Gonzales-Gil, Mr. Cantu, and Mr. Katine voted for the motion. Mr. Brodie abstained. The motion was adopted.

The Chairman moved to agenda item eighteen, entry of order in contested cases. No orders were presented.

The next regularly scheduled meetings of the Commission will be February 22, 1999 and April 12, 1999. Ms. Mayfield, seconded by Ms. Sutton, moved that the meeting be adjourned. The motion was adopted by unanimous consent. The Chairman adjourned the meeting at 11:26 a.m.

APPROVED this the _____ day of _____, A.D. 1999.

Chairman

ATTEST: _____
Administrator